

**Remarks**

In view of the above amendments and following remarks, favorable reconsideration in this application is respectfully requested.

In the July 27, 2007 Office Action, claims 3-5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; claims 1-2 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.*; and claims 3-5 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.* in view of U.S. Patent No. 5,803,333 to *Fawcett*.

Claims 1-5 are presently pending, and of those claims, claims 1 and 5 are independent claims. By the present amendments, claims 3-5 have been amended.

In summary, the Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. § 102(e) because the Applicant believes that the cited reference does not anticipate an outer separable cover, a conduit encasing a tube, and means for selectively sealing the cover interior, as recited in the claimed invention. Also, the Applicant respectfully traverses the rejection of claim 5 under 35 U.S.C. § 103 because the Applicant believes that the cited reference does not make obvious the outer separable cover and a cover made of chemically hardened material.

Claim Rejections – 35 U.S.C. § 112

The Office Action rejected claims 3-5 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Office Action found that “it” in claim 3 is unclear, “the sealed end” in claim 4 has insufficient antecedent basis, and the portable flexible carrier as recited by claim 5 is unclear as to its metes and bounds.

In response, claim 3 has been amended to recite “the carrier” instead of “it;” claim 4 has been amended to recite “an end” instead of “the sealed end;” and claim 5 has been amended to recite the elements of the claimed portable flexible carrier.

Applicant respectfully submits that claims 3-5, as amended, are definite, and thus, the Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim Rejections – 35 U.S.C. § 102

The Office Action rejected claims 1-2 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Pub. No. 2002/0179647 by *Hall et al.* (hereafter “*Hall*”). The Office Action states that *Hall* discloses a portable fluid carrier, as recited in claim 1.

Applicant respectfully submits that *Hall* does not anticipate claim 1 because *Hall* does not teach a portable flexible carrier that includes “a flexible fluid container entirely encased within an outer separable cover..., a tube connected to an opening of the flexible container..., a

conduit...within which the entire length of the tube is encased, ...and means for selectively sealing the cover interior...,” as recited in claim 1.

*Hall* discloses a hydration system 100 that has a bladder 110 with a spout 120 and a tube 130, as described in paragraph [0020] and shown in FIG. 1. The spout 120 is inserted into a hole in the bladder 110 and fastened into place, as described in paragraph [0022] and shown in FIG. 4. The bladder 110 includes an inner bladder formed from heat sealing layers 520a and 520b together and an outer protective bladder formed from welding layers 510a and 510b together to provide “a pouch within a pouch,” as described in paragraph [0023] and shown in FIG. 5. The tube 130 extends from the spout 120.

Applicant respectfully submits that the hydration system of *Hall* does not teach an outer separable cover, as recited in claim 1. *Hall* does not have an outer cover for its bladder 110. *Hall* describes the bladder 110 itself as maybe having an inner bladder and an outer protective bladder, but *Hall* does not teach that the bladder 110 itself, whether it is a single pouch or a pouch within a pouch, can be placed in another structure or cover. Therefore, *Hall* does not teach that the bladder 110 can be encased in a cover.

Furthermore, although the bladder 110 may have an inner bladder and an outer protective bladder, the outer protective bladder is not separable. FIG. 5 of *Hall* shows that the bladder 110 can have an inner bladder within an outer protective bladder, but the inner and outer bladders cannot be separated because of the spout 120. FIG. 4 shows that the spout 120 is fastened to an

inner section 124 with the bladder 110 sandwiched in between. Also, in paragraph [0022] which describes FIG. 4, the spout 120 is described as being “configured to be inserted through a hole in the bladder 110, and fastened into place by, for example, screws threaded into the inner section 124, which forms part of the spout 120.” Paragraph [0025] of *Hall* requires that a portion of the bladder material be seated between inner section 124 and outer section 121 of the spout 120. Furthermore, paragraph [0027] states that the inner section 124 includes holes 124a through which screws may be threaded into the outer section 121 so as to engage and grip the bladder material. Thus, the inner bladder cannot be separated from the outer protective bladder without disassembling the spout 120. Hence, even if the outer protective bladder were assumed to be a cover, *Hall* does not teach that the outer protective bladder can be separated from the inner bladder without disassembling the spout 120. Therefore, “an outer separable cover,” as recited in claim 1 of the present application, does not appear in *Hall*.

To the contrary, the Applicant’s invention includes a separable cover for a flexible drinking fluid carrier which prevents contamination of its fluid contents in the presence of chemical toxins, biological agents, and radioactive particles, as described in paragraph [0003] of the present application. The cover can be produced from one or more sheets of chemically hardened material, as suggested in paragraph [0011]. In use, the cover prevents any contamination of the drinking fluid present in the flexible container through exposure to chemical toxins in liquid or gaseous form, biological agents and radioactive particles which may be released into the atmosphere, as stated in paragraph [0014].

Also, the Applicant respectfully submits that the hydration system of *Hall* does not disclose a conduit within which a tube is encased, as recited in claim 1. As clearly shown in FIGS. 1 and 2 of *Hall*, the tube 130 is not encased in any other member. Also, paragraph [0031] suggests that the tube 130 can be made of a layer of highly resistant fluoropolymer over a polymer, but it is only suggesting that the tube 130 itself can be made of multiple layers and not stating that the tube 130, whether single-layered or multi-layered, can be placed within another structure. Therefore, *Hall* does not teach a conduit that encases the tube 130. Thus, “a conduit within which the entire length of the tube is encased,” as recited in claim 1, does not appear in *Hall*.

Furthermore, the Applicant respectfully submits that *Hall* does not teach means for selectively sealing the cover interior, as recited in claim 1. As discussed above, the bladder 110 is not encased in a cover. The bladder 110 itself may have an inner bladder within an outer protective bladder, but the bladder 110 is not placed within a separate structure or cover. Additionally, even if the outer protective bladder is assumed to be a cover, the outer protective bladder’s interior is sealed by the inner bladder since both share the same hole that receives the spout 120, as discussed in paragraph [0022] and shown in FIG. 4, and the inner bladder cannot be separated from the outer bladder without disassembling the spout 120. Thus, *Hall* does not have a means for selectively sealing the interior of a cover because it does not have a cover and because the inner bladder cannot be selectively separated from the outer bladder without

disassembling the spout 120. Therefore, “means for selectively sealing the cover interior,” as recited in claim 1 of the present application, does not appear in *Hall*.

Anticipation requires that every limitation of a claim must identically appear in a prior art reference. See *Getcher v. Davidson*, 43 U.S.P.Q.2d 1030, 1032 (Fed. Cir. 1997). It is clear that the limitations of an outer separable cover, a conduit within which a tube is encased, and means for selectively sealing the cover interior do not identically appear in *Hall*. Absence from the prior art reference of any claimed element negates anticipation. See *Rowe v. Dror*, 42 U.S.P.Q.2d 1550, 1553 (Fed. Cir. 1997).

Therefore, Applicant respectfully submits that *Hall* does not anticipate claim 1 and because claim 1 is believed not anticipated, the Applicant respectfully submits that claim 2 which depends on claim 1 is also not anticipated. Thus, the Applicant requests reconsideration and withdrawal of the rejection of claims 1-2 under 35 U.S.C. § 102(3) in view of *Hall*.

#### Claim Rejections – 35 U.S.C. § 103

The Office Action rejected claims 3-5 under 35 U.S.C. § 103 as being unpatentable over *Hall* in view of U.S. Patent No. 5,803,333 to *Fawcett* (hereafter “*Fawcett*”). The Office Action states that *Hall* discloses the claimed invention but not the shoulder straps or sealable flap. Thus, the Office Action cites *Fawcett* as teaching a pouch with shoulder straps and sealable flap that can carry a bladder similar to *Hall*. Therefore, the Office Action concludes it would have been obvious to one skilled in the art to carry the bladder of *Hall* in the device of *Fawcett*.

Claims 3-4 depend on claim 1, and the Applicant believes claim 1 is patentable over *Hall* in view of *Fawcett* because neither *Hall* nor *Fawcett* make obvious a cover made from chemically hardened material, a conduit made from chemically hardened material that encases a tube, and means for selectively sealing the cover interior from the atmosphere.

Claim 1 recites "...an outer separable cover produced from a chemically hardened material which is impermeable to chemical toxins in liquid or gaseous form, biological agents and radioactive particles ..., a conduit produced from the chemically hardened material within which the entire length of the tube is encased, ... and means for selectively sealing the cover interior and its contents from the atmosphere."

*Hall* discloses a hydration system with a bladder 110 that provides chemical biological warfare hardened protection, as described in paragraph [0018] of *Hall*. *Fawcett* teaches a pack 10 for wearing on a person's back, as shown in FIG. 1 of *Fawcett*. The pack 10 includes a liquid-holding reservoir 48 with a tube 50 and valve 52, as shown in FIGS. 3 and 4. The pack 10 also has a top flap 20, as described in col. 2, lines 52-55.

Applicant respectfully submits that carrying the bladder of *Hall* in the pack of *Fawcett* would not render obvious the invention as recited in claim 1. The pack of *Fawcett* is not made to be impermeable to chemical toxins, biological agents, or radioactive particles. It does not have a conduit that provides protection to the tube 50 against chemical toxins, biological agents, or radioactive particles. Also, the top flap 20 does not seal the interior of the pack from the

atmosphere such that it protects the bladder of *Hall*. The bladder of *Hall* only provides protection against chemical toxins and biological agents, as stated in paragraph [0003] of *Hall*. It does not provide protection against radioactive particles. Thus, when the bladder of *Hall* is carried in the pack of *Fawcett*, only the bladder of *Hall*, and not the pack of *Fawcett*, provides protection, and that protection is limited to chemical toxins and biological agents. Therefore, the bladder of *Hall* carried in the pack of *Fawcett* does not make obvious the invention recited in claim 1, and claim 1 is patentable over *Hall* in view of *Fawcett*.

Because claim 1 is believed patentable over *Hall* in view of *Fawcett*, the Applicant respectfully submits that claims 3-4 which depend on claim 1 are patentable over *Hall* in view of *Fawcett*. Therefore, the Applicant respectfully requests that the rejection be withdrawn.

Claim 5 recites a portable flexible carrier that includes "a cover to receive a pouch and a fluid container, ... the cover being made of a flexible chemically hardened material, the fluid container being made of a flexible material; ... a tube conduit...being made of the flexible chemically hardened material; ...wherein the flexible chemically hardened material comprises a fabric support covered by a protective complex that provides a substantial barrier to chemical toxins in liquid or gaseous form, biological agents, and radioactive particles."

Applicant respectfully submits that carrying the bladder of *Hall* in the pack of *Fawcett* would not render obvious the invention as recited in claim 5 because the pack of *Fawcett* is not made to be impermeable to chemical toxins, biological agents, or radioactive particles and it does



not have a conduit that provides protection to the tube 50 against chemical toxins, biological agents, or radioactive particles. As discussed above, when the bladder of *Hall* is carried in the pack of *Fawcett*, only the bladder of *Hall*, and not the pack of *Fawcett*, provides protection, and that protection is limited to chemical toxins and biological agents. Therefore, the bladder of *Hall* carried in the pack of *Fawcett* does not make obvious the invention recited in claim 5, and claim 5 is patentable over *Hall* in view of *Fawcett*. Thus, the Applicant respectfully requests that the rejection be withdrawn.

In the event there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

In view of the foregoing, Applicant believes claims 1-5 are in condition for allowance. Prompt and favorable treatment is respectfully solicited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (124316.00102). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicant hereby petitions under 37 CFR 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

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Respectfully submitted,

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